

Regulation 30-14

Administrative Procedures

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A. Procedures for Local Beach Management Plan Approval and Amendments [Section 48-39-350(A)].

(1) South Carolina local governments with jurisdiction fronting the Atlantic Ocean shall submit to the Department by no later than July 1, 1990, a local beach management plan after the local government has afforded the opportunity for adequate public review.

(2) Upon receipt of the local plan, the Department shall:

- (a) Afford the public a thirty day comment period;
- (b) Afford the opportunity for a public hearing on the local beachfront management plan;
- (c) After considering all comments, approve, modify or remand the local beachfront management plan.

(3) The Department shall issue a public notice of the approval of any local beach management plan or amendment thereto. The implementation date of the local beach management plan or amendment thereto will be specified in such public notice.

B. Procedures for State Implementation of Local Responsibilities [Section 48-39-350(B)].

(1) If a local government fails to develop and implement a local beach management plan as required by Section 48-39-350, the Department shall implement the local government's responsibilities by:

- (a) Issuing public notice that the Department has found that the local government has failed to develop and implement a local beach management plan as required;
- (b) Carrying out the tasks enumerated in Section 48-39-350(A)(1-10);
- (c) Providing a thirty day public comment period for public review of the Department's proposed local beach management plan;
- (d) Affording the opportunity for a public hearing;
- (e) After reviewing all public comments, modify and/or adopt and implement the local plan.

(2) The Department may delegate responsibility for the implementation of the Department sponsored and approved local beach management plan to the local government, but the Department shall have the right to assume responsibility for administering and enforcing the plan if the local government fails to do so.

C. Procedures for State/Local Coordination During and in Response to Emergency Situations (Section 48-39-320 & 350). The issuance of the Department emergency order automatically supersedes any local emergency order for the same emergency situation.

D. Procedures for Determining Destroyed Beyond Repair (Section 48-39-290(B)).

(1) The Department shall be required to make a determination as to whether or not a structure is destroyed beyond repair under Section 48-39-290 in any of the following cases:

- (a) Upon the written request of an owner of the structure or local government official;
- (b) Upon its own election;

(c) As part of a damage assessment effort conducted solely by the Department or in cooperation with a local government in response to an emergency situation.

(2) The Department shall provide a copy of its determination of whether a structure is destroyed beyond repair to the property owner and the local government with jurisdiction over such structure.

(3) The Department shall employ the following procedures in determining whether a structure is destroyed beyond repair: See also R.30-14(D)(4) and (5).

(a) Habitable Structure:

(i) Following a natural disaster, the Department shall coordinate a post-storm damage appraisal with the affected unit of local governments. Pursuant to Section 48-39-270(11) the Department staff shall make the initial damage appraisal. When appropriate, the Department may use the property owner's insurance adjustor's figures to determine the damage.

(ii) If an owner disagrees with the appraisal of the Department, he may obtain a second appraisal to evaluate the damage to the building. An owner who disagrees with the appraisal of the Department must notify the Department in writing, within 90 days of receipt of the Department's determination that he intends to obtain an appraisal. If the two appraisals differ, then the two appraisers must select a third appraiser. If the two appraisers are unable to select a third appraiser, the Clerk of Court of the county in which the structure lies must make the selection. All third appraisers must be registered, professional engineers, registered architects or licensed adjustors. All third appraisers must not have been involved in either the insurance adjustment of the property or the first or second appraisal and the cost of the third appraisal will be divided equally between the Department and the property owner. In no event may the property owner begin rebuilding or repairing (other than emergency repairs) a structure until the appraisal process described herein has been completed. Nothing in this section prevents a court of competent jurisdiction from reviewing, de novo, the appraisal upon the petition of the property owner.

(b) Pools:

(i) Following a natural disaster, the Department shall coordinate a post-storm damage assessment with the affected unit of local government. Pursuant to Section 48-39-270(11) the Department shall make the initial assessment.

(ii) If an owner disagrees with the appraisal of the Department, he may obtain an appraisal to evaluate the damage to the pool. An owner who disagrees with the appraisal of the Department must notify the Department in writing, within 90 days of receipt of the Department's determination, that the owner intends to obtain an appraisal. If the two appraisals differ, then the two appraisers must select a third appraiser. If the two appraisers are unable to select a third appraiser, the Clerk of Court of the county where the pool lies must make the selection. All third appraisers must be registered, professional engineers and the cost of the third appraisal will be equally divided between the Department and the property owner. In no event may the property owner begin rebuilding or repairing a pool (other than emergency repairs) until the appraisal process described herein has been completed. Nothing in this section prevents a court of competent jurisdiction from reviewing, de novo, the appraisal upon the petition of the property owner.

(c) Seawalls and Bulkheads: In determining whether a seawall or bulkhead as defined in Section 48-39-270(1)(a) and (b) is destroyed more than eighty percent above grade through June 30, 1995, more than sixty-six and two thirds percent above grade from July 1, 1995, through June 30, 2005, and more than fifty percent above grade after June 30, 2005, the damage assessment shall be accomplished as follows:

(i) Damage to seawalls and bulkheads will be judged on the percent of the structure remaining intact at the time of damage assessment. The portion of the structure or device above grade parallel to the shoreline must be evaluated. The length of the structure or device parallel to the shoreline still intact must be compared to the length of the structure or device parallel to the shoreline which has been destroyed. The length of the structure or device parallel to the shoreline determined to be destroyed divided by the total length of the original structure or device parallel to the shoreline yields the percent destroyed. Those portions of the structure or device standing, cracked or broken piles, walers, and panels must be assessed on an individual basis to ascertain if these components are repairable or if replacement is required.

(ii) If the property owner disagrees with the assessment of a registered professional engineer acting on behalf of the Department, he may obtain an assessment by a registered professional engineer to evaluate, in the same manner set forth herein, the damage to the structure or device. An owner who disagrees with the assessment of the Department must notify the Department in writing, within 90 days of receipt of the Department's determination, that he intends to obtain an independent assessment. If the two assessments differ, then the two engineers who performed the assessment must select a registered professional engineer to perform the third assessment. If the first two engineers are unable to select an engineer to perform the third assessment, the Clerk of Court of the county where the structure or device lies must make the selection of a registered professional engineer. The cost of the third engineer will be equally divided between the Department and the property owner. The determination of the percentage of damage by the third engineer is conclusive. In no event may the property owner begin rebuilding or repairing a seawall or bulkhead until the appraisal process described herein has been completed. The determination of the degree of destruction must be made on a lot by lot basis by reference to county tax maps.

(d) Revetments: Revetments must be judged on the extent of displacement of the stone, the effort to return these stones to the pre-storm event configuration of the structure or device, and the ability of the revetment to retain backfill material at the time of the damage assessment. If the property owner disagrees with the assessment of a registered professional engineer acting on behalf of the Department, he may obtain an assessment by a different registered professional engineer to evaluate, as set forth in this item, the damage to the structure or device. An owner who disagrees with the appraisal of the Department must notify the Department in writing, within 90 days of receipt of the Department's determination, that the owner intends to obtain an appraisal. If the two assessments differ, then the two engineers who performed the assessment must select a registered professional engineer to perform the third assessment. If the first two engineers are unable to select an engineer to perform the third assessment, the Clerk of Court of the county where the structure or device lies must make the selection of a registered professional engineer. The cost of the third engineer will be equally divided between the Department and the property owner. The determination of the percentage of damage by the third engineer is conclusive. In no event may the property owner begin rebuilding or repairing a structure until the appraisal process described herein has been completed. The determination of the degree of destruction must be made on a lot by lot basis by reference to county tax maps.

(4) Inventory: The following steps will be taken by the Department in order to insure accurate and expeditious damage appraisals can be conducted when necessary.

(a) Structures which are affected by the setback line will be identified. If the line touches any part of the structure or an attached deck, the structure is considered affected by the destroyed beyond repair provisions of the Act and additional information must be collected. By community (city, county) a list (addresses and tax map numbers) of each structure that touches the baseline and setback line will be prepared.

(b) Staff will prepare an inventory file for all structures subject to the Department regulation within their assigned community. The file will contain information relative to the location, ownership, persons to contact, and assessed value of the property, and a recent photograph of the front and rear sides of the structure. The completion of this task should include an inventory of swimming pools and erosion control devices where possible. An inventory of vertical erosion control devices should include a measurement of the parallel length of the structure and the elevation of the top of the structure. An inventory of a revetment will require that the seaward slope of the structure be determined by pulling a tape from the highest crest stone to the top of a representative toe stone. This is to be referred to as a revetment transect. Revetment transects are to begin at the northern property line and are to be repeated every 20 feet across the revetment to the southern property line. The frequency of these transects may be intensified to every 10 feet to encompass high or low extremes in the rock elevations. A schematic drawing shall depict the revetment by its transects. Beside each transect shall appear the letters (A) for adequate stone amounts, (D) for deficient stone amounts, and (S) for surplus stone amounts. Combinations of these letters on one transect will be separated by a short line that will distinguish one depiction from the other along the transect. The elevation of the top of the revetment must also be included.

(c) For habitable structures, the base value of each affected structure will be determined by consulting the tax appraisal records for each county. The values used by the Department will only be the assessed value for the structures on the lot and will not contain any land values. The Damage Assessment Coordinator will maintain a master list of all impacted structures.

(d) The staff person assigned the assessment responsibility for a particular beach community will periodically review the assessment sheets and coordinate with local communities. Assessments will be updated annually or as staff reassignments are made.

(e) Immediately after a damage incurring situation, the staff person will take the damage assessment file, preliminary damage evaluation forms for one and two story structures, and a camera and make a site visit to each property in their assigned area. The properties will be photographed and a preliminary evaluation completed for each property. This evaluation will be used to separate the properties into three categories: minor damage, possible destroyed beyond repair, and completely destroyed. At this time the person doing the assessment will try and locate any houses missing from foundations, and note any problems with the assessment process. Structures that are identified as having minor damage will be counted, the addresses and tax map numbers verified and a list compiled to be given to the Department offices and the local building official so that authorizations to make repairs can be issued promptly.

(f) The structures that are identified as possibly destroyed beyond repair will be listed, addresses verified and duplicate copies of the assessment sheets sent to the Department offices.

(5) Damage Assessment:

(a) Habitable Structures and Pools:

(i) The Damage Assessment Coordinator will assign properties determined from the preliminary survey to be possibly destroyed beyond repair to an insurance adjuster, or in the case of pools an engineer, who is under contract to the Department. The adjuster/engineer will make arrangements with the owner of the property to visit the site and prepare an estimate of the cost of repairing the structure to its previously existing condition. In the case of pools, the damage estimate will be determined by the sum of the following costs:

(1) The area of damaged walls and floor, multiplied by the unit replacement costs for the walls and floor;

(2) Demolition and removal costs;

(3) Site preparation costs.

This estimate will be based on the amount of damage to various components of the structure, and the unit cost of repairing each component as supplied by a nationally recognized estimating firm.

(ii) The Damage Assessment Coordinator will compare the repair estimates with the base value figures. In the case of habitable structures, the base value is obtained from the tax assessor or other sources deemed credible by the Department. The base value for a pool can be obtained from any of the following sources: 1) Bills and invoices submitted to the pool owner at the time of pool installation; 2) tax assessment figures; 3) estimate based on the size of the pool and the unit cost of pool construction as supplied by a nationally recognized estimating firm; 4) any other information that is determined to be reliable by the Damage Assessment Coordinator. If the repair cost is greater than 66 2/3% of the base value, the structure will be determined to be destroyed beyond repair (DBR).

(iii) A list of those structures that are repairable and those that are DBR will be maintained and distributed daily to the Department field offices. Authorization to repair buildings not DBR can be made as soon as the assessment process is completed. The owners of properties listed as DBR will be notified by letter by the Permitting Staff. All records and files pertaining to the buildings listed as DBR will be turned over to the Department's legal staff as soon as the process is completed. There will be no reassessments by the Department unless there is intervening damage.

(b) Erosion Control Devices

(i) Vertical walls: The following percentages will be used when conducting the destroyed beyond repair assessments for vertical walls: 1) pilings - 20%, 2) whalers - 20%, 3) panels - 60%. On walls with no whalers incorporated into the design, the percentage is to be 25% for the pilings and 75% for the panels. A vertical wall will be considered functional if it is no more than 2 feet out of alignment or 30 degrees, whichever is less. For concrete walls which have only one component, the intact portion above grade, parallel to the shoreline will be compared to the original shore parallel portion of the wall to determine if the structure is damaged beyond repair.

(ii) Revetments: To determine if a revetment is destroyed beyond repair, revetment transects must be conducted as described in the inventory section, R.30-14(D)(4). The post-damage transects will be compared to the original revetment configuration. If the revetment has slumped or stone been lost to the extent that the percentage of damaged revetment exceeds the percentages allowed in R.30-13(N)(3)(e), the structure is destroyed beyond repair.

(iii) Those structures which are a combination of vertical wall fronted by rock revetment will be assessed using both the method for evaluating walls and the method for evaluating revetments. The percent of the wall which is destroyed will be determined then multiplied by 50%. Likewise, the percentage of the revetment which is destroyed will be determined and then multiplied by 50%. The sum of the two damaged percentages is the percent of the complete structure which is destroyed beyond repair.

(iv) The determination of the percent of damage to an erosion control structure must be made on a lot by lot basis as referenced by county tax maps which existed on May 23, 1993.

(v) Effective date of damage appraisals: All appraisals are effective for 90 days from the date all concerned parties agree on the appraisal, unless otherwise determined by the Department. If the structure

sustains additional damage prior to the 90 day time limit, the Department may require a new assessment. If no work has begun during that 90 days, a new damage appraisal may be required before the Department will issue another permit or release letter.

E. Procedures for Adopting Baselines and Erosion Rates (Section 48-39-280).

(1) Following the establishment of the interim baselines, erosion rates, and setback lines pursuant to Section 48-39-280(C) and any amendments or revisions thereto, the Department will adopt final baselines, erosion rates, and setback lines as part of the state comprehensive beach management plan pursuant to Section 48-39-320. The following procedure will be used for the establishment of final baselines, erosion rates, and setback lines:

(a) The proposed baseline, erosion rate, and setback line for a region, island or part thereof, or other geographic area of South Carolina's ocean shoreline shall be made available to the public for inspection at each of the Department's offices;

(b) the Department shall afford the public a thirty-day comment period;

(c) the Department shall afford the opportunity for a public hearing.

(2) The Department shall, following the consideration of all public comments, adopt in final form the baselines, erosion rates, and setback lines and shall include such information in the state plan.

F. Procedures for Appealing Baselines and Erosion Rates [Section 48-39-280(E)].

(1) Any landowner claiming ownership of affected property who feels that the final or revised setback line, baseline, or erosion rate as adopted is in error, upon submittal of substantiating evidence, within one year of the revision date, must be granted a review of the setback line, baseline, or erosion rate, or a review of all three. The Department shall hear all requests for review. The process is as follows:

(a) Upon receipt of a property owner's request for review of the setback, baseline, or erosion rate, a request will be made of the property owner to provide the Department with substantiating evidence, as required in Section 48-39-280(E). If the property owner does not respond or if there is no evidence at all to support the request, a letter will be sent to the property owner denying the request.

(b) If the Department agrees with the property owner that the lines are in error, the lines will be moved.

(c) If the Department disagrees with the property owner, and believes that the location of the lines is correct, the property owner will be notified in writing. Any appeal of the Department's decision under this section shall be made to the Administrative Law Judge Division.

(2) Appeals are governed by R.30-6.

G. Procedure for Movement of Baseline After Renourishment.

(1) The Department must receive a petition from the local government; or the landowners with notice to the local government, before the baseline can be moved pursuant to Section 48-39-280(A)(4). The petition cannot be submitted until the permitted beach nourishment project, which must have a minimum five-year design life, has been completed. The local government must certify to the Department that the proposal to move the baseline is consistent with the objectives and policies of its local comprehensive beachfront management plan.

(2) Petitioner must demonstrate an ongoing commitment to fund a future renourishment project with the same or greater design life than the original project using an acceptable funding option.

(3) The Petitioner must prove that it possesses or has obtained all necessary legal authority to perform the nourishment project in the future, excluding environmental regulatory permits.

(4) Petitioner must submit survey data in the following format to demonstrate the beach has been stabilized by the nourishment project:

(a) A minimum of three sets of survey data from the stations (monuments) designated in the project permit must be submitted. This will include all stations within the construction limits (maximum allowable profile spacing is 1,000 feet) and stations within 2,000 feet of each end of the project. These surveys will be taken at three month intervals, beginning at the time of project construction completion.

(b) Semi-annual surveys of the project beach during years two and three after project construction must be performed and submitted to the Department to document beach stability.

(5) The Department will evaluate the survey data to determine beach stability. Stability is defined in (10) below. If the beach has not stabilized in the first six months following construction, additional subsequent surveys will be evaluated to determine stability.

(6) The project must be constructed according to the permit design at an elevation which will maintain a dry sand beach. The maintenance of the dry sand beach will be evaluated in the same manner as stability, using the survey data.

(7) The Petitioner must show an ongoing financial commitment to renourishment which will stabilize and maintain the dry sand beach at all stages of the tide for the foreseeable future. The Department defines foreseeable future as at least ten years from the date the original project achieved stability.

(8) The Department will move the baseline when all of the above criteria have been met. The new baseline will be located on the landward edge of the existing erosion control device or at a position determined by the Department using the method described in Section 48-39-280(A)(1).

(9) No new construction may occur in the area between the former baseline and the new baseline for three years after the initial beach nourishment project has been completed, unless allowed by special permit. The project is "completed" when it has stabilized in the manner described in (10) below. Reconstruction of habitable structures and pools is not considered new construction for purposes of this section. Additions are considered new construction.

(10) The following definition will be used by the Department to define "stability": A renourished beach is stabilized when field observations and quarterly surveys of the project beach, conducted for a minimum of six months following construction completion, demonstrate only normal long-term erosion patterns and losses are affecting the nourished beach. The Department may consider any or all of the following in determining stability: profile characteristics and changes (volumetric and contour changes) and sediment analyses.

H. Damage Assessment. Notwithstanding Sections R.30-14(A)-(G), Section 8 of 1990 Amendments to the 1977 Coastal Zone Management Act, states as follows. Except as otherwise specifically provided in this act, the provisions of this act shall be applied only prospectively and shall not affect any legal action commenced or any cause of action accruing as a result of an event or events which occurred before the

effective date of this act. Any such action must be governed by the provisions of Sections 48-39-10 through 48-39-360, as amended by Act 634 of 1988, and in existence before the effective date of this Act.

(1) Assessment of damage to seawalls and bulkheads that occurred between July 1, 1988, and July 1, 1990, will be judged by the following criteria which shall be used to determine the percentage of damage to the erosion control device:

(a) Seventy-five percent (75%) multiplied by the length of structure remaining plus twenty-five percent (25%) multiplied by the amount of backfill remaining equals the percentage of structure not destroyed.

(2) The following portions of the structure shall not be included:

(a) Wingwalls;

(b) Deadmen;

(c) Tiebacks.

(3) Assessment of damage to swimming pools that occurred between July 1, 1988, and July 1, 1990, will be judged by the following criteria. Swimming pools shall be considered destroyed beyond repair if either of the following exists:

(a) Undermining of the pool support which causes severe cracks in the pool walls and floors.

(i) Severe cracks shall be those which produce a loss of structural integrity causing a portion of a structural element (i.e. wall or floor) of the pool to be replaced rather than repaired.

(ii) Greater than ten percent (10%) of any one structural element (i.e. wall or floor) shall render the pool destroyed beyond repair.

(iii) If the addition of an insert is required to make the pool functional, then the crack shall be considered severe and the pool shall be declared destroyed beyond repair.

(iv) If a pool has been assessed and repair procedures require the removal of ten percent (10%) of any one structural element, then the pool shall be declared destroyed beyond repair at the time of the removal of the element.

(b) Hydrostatic pressure beneath the pool which causes the pool to be lifted up more than six inches. Hydrostatic pressure beneath the side of the pool produces severe cracks as delineated in (a)(iv) above shall mean that the pool is destroyed beyond repair.

I. Procedure for Removal of Structures Located on the Active Beach: The Department shall employ the following procedures for determining when a structure located on the active beach must be removed: (Note: This section only applies to those structures approved by the Department via special permit.)

(1) If a major storm event or chronic, long-term beach erosion causes a structure to become located on the active beach, as defined in R. 30-1(D)(2), the Department will monitor the beach fronting the structure for a minimum of one year.

(2) Monitoring of the beach will include the collection and analysis of beach profile data, and visual inspections.

(3) The Department will consider all available information including pending renourishment projects, long-term erosion/accretion trends for the area, and shoal attachment cycles prior to determining whether a structure will be permanently located on the active beach.

(4) Upon determining that a structure is permanently located on the active beach, the Department will notify the property owner and require that the structure be removed or relocated landward by the owner.